

HOUSE BILL NO. 451

INTRODUCED BY EBINGER, REINHART, POMNICHOWSKI, HAMILTON, TAYLOR, HAWK, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING GENERAL CONTRACTORS AND BUILDERS OR DEVELOPERS TO DISCLOSE CERTAIN INFORMATION AND TO PROVIDE EXPRESS WARRANTIES WITH RESPECT TO THE BUILDING OR SALE OF NEW RESIDENCES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Residential construction contracts -- disclosure and warranty requirements. (1) For the purposes of this section, "residential construction contract" means a contract between a general contractor and an owner for the construction of a new residence ~~or for the repair or remodeling of an existing residence when the repair or remodel is in an amount of \$100,000~~ \$25,000 or more.

(2) All residential construction contracts that are subject to the provisions of this section must be in writing and must contain the following:

- (a) a disclosure that the general contractor has a current general liability policy;
- (b) a disclosure that the general contractor has a workers' compensation policy or is an independent contractor without employees;
- (c) a provision setting out the billing cycle establishing the payment schedule to be followed by the owner;
- (d) a provision establishing procedures for handling change orders by the owner;
- (e) a statement of all inspections AND TESTS that the general contractor will perform or have performed prior to, during, or upon completion of construction and a statement that the owner is entitled to receive the results of any tests conducted by the general contractor or conducted at the general contractor's request;
- (f) a statement that the owner is entitled at the owner's expense to have any inspections AND TESTS conducted that the owner considers necessary ~~and that the inspections may be conducted at any stage of the construction project;~~ and
- (g) a statement that the general contractor is providing an express warranty that is valid for a period of at least 1 year from completion of the construction project. The warranty must provide detailed descriptions of those components that are included or excluded from the warranty, the length of the warranty, and any specialty

warranty provisions or time periods relating to certain components. The warranty provisions must also clearly set forth the requirements that must be adhered to by the buyer, including the time and method for reporting warranty claims, in order for the warranty provision to become applicable.

NEW SECTION. Section 2. Disclosure and warranty requirements for sales of newly constructed residences. (1) This section applies only to the sale of a newly constructed residence that has not been previously occupied and where the seller is the builder or a developer who has built or had the residence built for the purpose of resale.

(2) A builder or developer that is subject to the provisions of this section is required to provide to a buyer, prior to the sale of a new residence, the following:

(a) a statement of all inspections AND TESTS that the general contractor performed or had performed prior to, during, or upon completion of construction of the residence that is the subject of the potential sale; and

(b) an express warranty that is valid for a period of at least 1 year from the date of the sale of the residence. The warranty must provide detailed descriptions of those components that are included or excluded from the warranty, the length of the warranty, and any specialty warranty provisions or time periods relating to certain components. The warranty provisions must also clearly set forth the requirements that must be adhered to by the buyer, including the time and method for reporting warranty claims, in order for the warranty provisions to become applicable.

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 28, chapter 2, and the provisions of Title 28, chapter 2, apply to [sections 1 and 2].

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